THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.12181 OF 2005

16.02.2006

Between:

S.Buchamma, W/o.Laxmi Rajam

… Petitioner

AND

The District Collector (Panchayat Wing), Karimnagar

And others

… Respondents

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.12181 OF 2005

ORDER:

The petitioner is sarpanch of Boinpally village in Karimnagar District. By an order dated 10.12.2004, the District Collector purporting to exercise the powers under Section 249(6) of A.P. Panchayat Raj Act, 1994 (the Act, for brevity) suspended the petitioner and directed the fourth respondent – Upa sarpanch; to discharge the functions of sarpanch. The orders of suspension were preceded by a show cause notice dated 26.8.2004. Be that as it is, aggrieved by the proceedings of the District Collector, the petitioner filed a writ petition being W.P.No.23519 of 2004. By an order dated 20.12.2004, this Court disposed of the writ petition giving liberty to the petitioner to file revision petition before the government while suspending the proceedings of the District Collector till the stay application of the petitioner is disposed of by the government. The petitioner filed revision petition before the government, who by order dated 16.2.2005 stayed the proceedings of the District Collector. Ultimately, the government by G.O.Rt.No.915 dated 02.6.2005 rejected the revision petition directing the District Collector to take necessary action against the petitioner under the provisions of the Act. This G.O. is assailed in the writ

petition.

This Court while admitting the writ petition suspended the impugned G.O. The fourth respondent herein filed W.V.M.P.No.1676 of 2005. The respondents 1 to 3 also filed W.V.M.P.No.3394 of 2005. As the submissions and the averments in W.V.M.P.s and the main writ petition are the same, with the consent of the parties, the matter is being disposed of finally at the interlocutory stage.

A reading of the show cause notice as well as the proceedings of the District Collector would show that Mandal Parishad Development Officer (MPDO), Boinpally sent a report dated 20.6.2004 alleging that the petitioner misappropriated the funds of gram panchayat. Based on the said report, the show cause notice was issued alleging that the petitioner guilty of misappropriation of the funds. While filing the revision petition, the petitioner specifically urged that the action of the District Collector in suspending the petitioner without furnishing the report of the MPDO is illegal and contrary to the decision of this Court in **D.Sathi Reddy v Commissioner, Panchayat Raj A.P., Hyderabad**. Curiously, the government did not advert to this aspect of the matter. Therefore, the learned Counsel for the petitioner is right in contending that the action of the first respondent, as confirmed by the second respondent, in suspending the petitioner is vitiated by non-compliance with the principles of natural justice. Indeed in **D.Sathi Reddy** (supra), this Court ruled that if the competent authority is placing reliance on any report before issuing any show cause notice to the sarpanch, the copy shall have to be supplied to the sarpanch giving opportunity to submit explanation to meet the charges effectively. Therefore, the impugned G.O. cannot be sustained.

This Court's attention has been drawn to the revision petition filed by the petitioner in which the petitioner raised as many as eight grounds. Curiously, the government rejected the revision petition observing as under.

> The case was heard on 10.5.2005. The District Panchayat Officer, Karimnagar, the petitioner and Upa-Sarpanch along with their counsel attended the hearing. Government, after hearing the arguments of both the parties and after careful examination of the report of the District Panchayat Officer, Karimnagar and the material available on the record, hereby confirm the District Collector's order issued vide reference 1st read above, as the Sarpanch had misappropriated an amount of Rs.35,000/- and utilized the same without the approval of the Gram Panchayat committee, and had also not conducted regular meetings of the Gram Panchayat Committee from 27.12.2003 to 31.3.2004 i.e., 95 days, and thus misused the powers vested in her. The stay granted by the Government in the reference 4th read above is hereby vacated.

Except stating that the government, after careful examination of the report of the Panchayat Officer, confirmed the orders of the District Collector, the various contentions raised by the petitioner were not even adverted to. The reasons are absent in the impugned order and for this reason also, the order of the District

Collector cannot be sustained.

Accordingly, this writ petition is allowed. The impugned order is set aside. It shall however be open to the District Collector, Karimnagar to take appropriate action in accordance with law. There shall be no order as to costs.

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(**V.V.S.RAO, J**)

February 16, 2006

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